

**APPROVED** Minutes of the **REGULAR MEETING OF THE ZONING BOARD** held on Tuesday, May 8, 2012, in the Public Meeting Room in the Village Hall, One Olde Half Day Road, Lincolnshire, IL.

**PRESENT:** Chairman Manion, Members Rubinstein, Kalina, Leider and Member Van de Kerckhove.

**ABSENT:** Member Soifer, Trustee Liaison Brandt.

**ALSO PRESENT:** Tonya Zozulya, Planner and Steve Robles, Planner.

**CALL TO ORDER:** **Chairman Manion** called the meeting to order at 7:02 p.m.

### **1.0 ROLL CALL**

The roll was called by **Planner Zozulya** and **Chairman Manion** declared a quorum to be present.

**Planner Zozulya** stated that **Member Rubinstein** is retiring from the Zoning Board, having served on it since 2003. As this is Bill Rubinstein's last meeting, Staff will invite him to a future Zoning Board meeting to present him with a small gift from the Village and express the Village's appreciation for his dedicated service.

### **2.0 APPROVAL OF MINUTES**

2.1 Approval of the Minutes of the Zoning Board Meeting held Tuesday, April 10, 2012.

**Member Kalina** moved and **Member Rubinstein** seconded the motion to approve the minutes of the Regular Meeting of the Zoning Board held Tuesday, April 10, 2012, as submitted. The motion passed unanimously by voice vote.

### **3.0 ITEMS OF GENERAL BUSINESS:**

3.1 **CONTINUED PUBLIC HEARING** regarding a request for a variation from Section 6-8-7(B) of the Village Code to increase the Floor Area Ratio (FAR) from the maximum Code-permitted 50% to 52% (an increase of 9,000 square feet), in conjunction with a proposed 78,000 sq. ft. building expansion to an existing office/warehouse building located at 450 Barclay Boulevard (Harris Architects/Durable Packaging International).

**Tonya Zozulya, Planner**, stated that since the FAR variation request was extensively reviewed by the Zoning Board at the April Zoning Board meeting, she will provide a general overview of the Petitioner's request. She stated that the reason the Petitioner is requesting a variation from the Zoning Code is because the proposed addition would be 9,000 SF more than is permissible by Code, which limits the FAR in the O/Ic Zoning District to 50% of the lot area. The existing FAR is 35% and the proposed FAR is 52%. The Petitioner's responses to the required nine variation standards (which were entered into the official record) have not changed since the previous meeting and were provided in the Zoning Board packets. **Planner Zozulya** further stated that in reviewing the

Petitioner's responses regarding the FAR variation, Staff was concerned that the following three standards have not been met: Standard #1 (hardship due to particular physical surroundings, shape or topographical conditions); Standard #2 (yielding of a reasonable return), and Standard #3 (unique conditions). She said that based on this, Staff was unable to make a positive recommendation for this variation request. **Planner Zozulya** said that the Village Code requires that the Zoning Board reviews the Petitioner's responses and determine whether each and every standard has been met to the Board's satisfaction, in order to recommend approval to the Village Board. **Planner Zozulya** said that the Petitioner's representative was present to make a presentation regarding the FAR portion of their request.

**Mr. Rick Harris** of Harris Architects, representing Durable Packaging International, was sworn in by **Chairman Manion**.

**Mr. Harris** said that they are proposing a 78,000-square foot warehouse expansion to their existing office/warehouse building. They are compliant with all Code setback requirements. **Mr. Harris** said that the property owner had initially desired a larger addition, but ultimately decided to scale it back to minimize their variation request. There is no available land to expand on without requiring a variation. If this variation is not approved, the company will have to relocate, although they would strongly prefer to remain in the Village. **Mr. Harris** said that in response to Standard #3, the Lake County Stormwater Management Commission indicated to them that they will not require additional detention for the proposed building expansion, which, he believes, signifies that an expansion of this size was built into the original subdivision design.

**Member Van de Kerckhove** indicated his agreement with Staff that the first three variation standards have not been met. The Petitioner's response to Standard #1 has no mention of any topographical or physical constraints on this property. **Member Van de Kerckhove** expressed his strong disagreement with the Petitioner's statement that because they do not have enough buildable land, they are entitled to a variation. **Member Van de Kerckhove** said that if that were enough reason for a variation, then the Zoning Board would have to grant these types of variations to other properties that have a limited amount of buildable land remaining. He also said that the Zoning Board needs to determine, in their own mind, whether the variation standards have been met.

**Chairman Manion** remarked that he is not concerned about setting a precedent for future FAR variation requests, as any request will be reviewed by the Zoning Board, based on its individual set of facts.

**Member Van de Kerckhove** stated that his research indicated that the Illinois Compiled Statutes provide for three variation standards and authorize each municipality to expand on these standards. Since the Village Code contains nine variation standards, above and beyond the State's requirements, he believes that the Village made a decision to be more restrictive in reviewing variation requests. Therefore, the Zoning Board should be mindful of the Petitioner's responses to these standards while evaluating this request.

**Member Kalina** said that the Zoning Board can make real world decisions while also respecting the Code.

**Member Leider** said that he felt “lukewarm” about this variation request. On one hand he would like to support businesses, but on the other hand he is not sure where their variation requests can start and stop.

**Member Rubinstein** stated that he is in favor of this variation for financial reasons. He deems this 2% FAR increase as insignificant. If it were 10%, then he may think differently. He would not want to see this business move out of the Village and is concerned that if that happens, local property taxes will go up.

**Chairman Manion** said that he does not believe a 2% variation in an industrial area would be detrimental. The company is trying to expand in a difficult economic climate. He takes zoning requirements seriously, but is inclined to vote for this variation because he finds the request reasonable.

There being no further questions or concerns from the Zoning Board, **Chairman Manion** closed the Public Hearing and reconvened the Zoning Board meeting regarding the FAR variation.

- 3.2 Continued consideration and discussion regarding a request for a variation from Section 6-8-7(B) of the Village Code to increase the Floor Area Ratio (FAR) from the maximum Code-permitted 50% to 52% (an increase of 9,000 square feet), in conjunction with a proposed 78,000 sq. ft. building expansion to an existing office/warehouse building located at 450 Barclay Boulevard (Harris Architects/Durable Packaging International).

There was a consensus among the members for this issue, and the following motion was read:

*Member Kalina moved and Member Rubinstein seconded the motion to approve, and recommend to the Village Board for their approval, a variation from Section 6-8-7(B) of the Village Code to increase the Floor Area Ratio (FAR) from the maximum Code-permitted 50% to 52% (an increase of 9,000 square feet), in conjunction with a proposed 78,000 sq. ft. building expansion to an existing office/warehouse building for Durable Packaging International, located at 450 Barclay Boulevard in the O/Ic Office/Industrial Zoning District, based on the facts in the Petitioner's Presentation Packet, dated May 1, 2012, date stamp received May 1, 2012, as presented in Staff's memorandum, dated May 4, 2012.*

*The motion passed by a vote of 4-1, with four members voting in favor (Chairman Manion, Members Rubinstein, Kalina and Leider) and one member (Van de Kerchhove) voting against the variation.*

- 3.3 **CONTINUED PUBLIC HEARING** regarding a request for a variation from Section 6-11-3 (B)(5) of the Village Code to defer construction of 64 Code-required parking spaces, through landbanking, as permitted per Section 6-14-11(D)(6), in conjunction with a proposed 78,000 sq. ft. building expansion to an existing office/warehouse building located at 450 Barclay Boulevard (Harris Architects/Durable Packaging International).

**Chairman Manion** recessed the Zoning Board meeting and opened the Public Hearing for the variation request, which was properly noticed in the March 22, 2012, issue of the *Lincolnshire Review*.

**Planner Zozulya** stated that there are currently 69 parking spaces provided on the site, including 3 handicapped spaces. The Petitioner is proposing to modify the existing parking lot immediately south of the new addition, thereby providing 64 stalls (including 3 handicapped spaces). No new parking is proposed to be built at this time. The remainder of the required parking is proposed to be deferred via landbanking. The landbanked area is shown in two locations (50 spaces adjacent to Barclay Boulevard and 14 spaces at the southwest corner of the property). Based on the existing and proposed office/warehouse use, 127 parking spaces are required by Code. **Planner Zozulya** said that the Petitioner's estimate of parking demand, following the expansion, is that it will not exceed 45-50 spaces for their employees and occasional visitors (there will be a limited number of visitors for pick-ups). This demonstrates that the parking to be provided will be sufficient for the Petitioner's immediate parking needs. Based on this, Durable Packaging is proposing to landbank 64 spaces, for a total of 128 spaces.

**Planner Zozulya** noted that the existing building is not compliant with current Code parking requirements, for a reason unknown to Staff (69 spaces provided vs. 89 spaces required). Despite this current parking shortage per Code, Staff has not received any parking complaints from the current or previous building users and owners, who have clearly not required more parking than is provided on-site. **Planner Zozulya** further indicated that a number of landbanked parking variations have been approved by the Village in the last 10 years. She said that Staff believes that the Petitioner's parking needs warrant a parking reduction from the Code requirement, since 64 spaces would be better served as open space at this time rather than impervious pavement. **Planner Zozulya** said that the Petitioner adequately dedicated areas on the site for the expansion of the required parking stalls, should parking demand increase in the future, which will be determined at the Village's sole discretion. **Planner Zozulya** stated that the Petitioner provided responses to the required nine variation standards (which were entered into the official record) that are attached to the Zoning packets. Staff is in favor of this variation request with three conditions outlined in the memo. **Planner Zozulya** said that the Petitioner is available to make a presentation regarding the landbanking variation.

**Mr. Rick Harris** of Harris Architects, representing Durable Packaging International, was sworn in by **Chairman Manion**.

**Mr. Harris** said that the company does not require more parking than what is being proposed. He added that HydraForce employees are currently allowed to park on the Durable Packaging property, due to the availability of parking.

**Member Leider** questioned whether the Village should take this opportunity to require that the Petitioner bring the total number of parking to 89, in order to meet the current Code requirement (as they are currently 20 spaces short).

**Member Kalina** said that, given the current and projected occupancy levels at Durable Packaging after the expansion, he feels it would be beneficial to leave more open space than require additional parking to come up to Code.

**Chairman Manion** noted that because the landbanking ordinance will state that landbanked parking is to be constructed at the Village's sole discretion, he does not see any need to require additional parking, beyond the 64 spaces proposed by the Petitioner. He inquired whether this variation will run with the land, to which **Planner Zozulya** responded affirmatively.

There being no further questions or concerns from the Zoning Board, **Chairman Manion** closed the Public Hearing and reconvened the Zoning Board meeting regarding the landbanked parking variation.

- 3.4 Continued consideration and discussion regarding a request for a variation from Section 6-11-3 (B)(5) of the Village Code to defer construction of 64 Code-required parking spaces, through landbanking, as permitted per Section 6-14-11(D)(6), in conjunction with a proposed 78,000 sq. ft. building expansion to an existing office/warehouse building located at 450 Barclay Boulevard (Harris Architects/Durable Packaging International).

There was a consensus among the members for this issue, and the following motion was read:

*Member Kalina moved and Member Rubinstein seconded the motion to approve, and recommend to the Village Board for their approval, a variation from Section 6-11-3 (B)(5) of the Village Code to defer construction of 64 Code-required parking spaces, through landbanking, as permitted per Section 6-14-11(D)(6), in conjunction with a proposed 78,000 sq. ft. building expansion to an existing office/warehouse building located at 450 Barclay Boulevard for Durable Packaging International, located at 450 Barclay Boulevard in the O/Ic Office/Industrial Zoning District, based on the facts in the Petitioner's Presentation Packet, dated May 1, 2012, date stamp received May 1, 2012, and subject to the following conditions contained in Staff's memorandum, dated May 4, 2012:*

- 1. The landbanked parking shall be constructed in the future, as deemed necessary, at the sole discretion of the Village.*
- 2. The land area being landbanked and which would otherwise be required for the construction of the landbanked parking spaces, shall not be improved with any other permanent structure or building, and shall have turf established.*
- 3. A permit from Lake County Stormwater Management Commission, regarding on-site detention, shall be provided to Staff prior to the Village issuing any building permits for the construction of the proposed building addition.*

*The motion passed unanimously by voice vote.*

- 3.5 **Public Hearing** regarding a text amendment to Section 6-14-14(N)(5), *Farmers Market*, of the Administration & Enforcement section of the Lincolnshire Zoning Code, to include the O/Ia Office/Industrial Zoning District as a permitted Zoning District for Farmers Market operations (Village of Lincolnshire).

**Chairman Manion** recessed the Zoning Board meeting and opened the Public Hearing for the text amendment request, which was properly noticed in the April 19, 2012, publication of the *Lincolnshire Review*.

**Planner Robles** summarized Staff's memorandum and noted that Staff was recently approached about bringing a farmers market to the Village's Corporate Center. However, before a Special Use request could be considered at the desired location within the O/Ia zoning district, it is necessary to first amend the Zoning Code to include the O/Ia district as an authorized district for farmers markets. **Planner Robles** explained that at present, the Zoning Code permits farmers markets in the B1, B2 and R5 districts as a Special Use since farmers markets are a natural fit in such retail zoning districts and that markets generate added activity in the Village's commercial developments. However, it was conveyed to Staff that the target audience for farmers markets has expanded to the daytime employee population looking to take advantage of these opportunities during lunch hours as people's weekends are becoming increasingly too busy. Staff believed that including the O/Ia district is appropriate given the zoning district's visibility along major arterials and the ability to serve our large office employee population as well as providing easy access for Village residents and motorists passing-through. **Planner Robles** further noted that the three standards for text amendments are contained in the Staff memorandum for the Zoning Board's review and consideration.

**Member Van de Kerckhove** sought clarification on which zoning districts farmers markets are currently permitted. **Planner Robles** explained that the current zoning districts that permit farmers markets are the B1, B2 and R5 districts, as a Special Use. He further clarified that this text amendment to include the O/Ia district would retain the Special Use requirement for farmers markets.

**Kathy Firfer, 209 Rivershire**, expressed her support for the idea of a farmers market in the Village. As a resident of Rivershire, the market would be very convenient to the neighborhood and thinks it's a wonderful opportunity to bring fresh foods to this neighborhood. **Mrs. Fifer** further elaborated that the only other markets nearby are in Libertyville and Deerfield which are open on the weekend and are relatively inconvenient, to have a farmers market right across the street is welcomed.

**Aaron Kinney, TGF Markets Inc.**, explained that for 30 years, Chicago has been operating farmers markets in their corporate areas, such as Walgreens, CityCorp, Eli Cheesecake Factory, and they seem to be sprouting up everywhere. If Lincolnshire decides to permit markets in the O/Ia district, the Village would certainly not be alone in this endeavor.

There being no further public comments, **Chairman Manion** closed the public hearing and reconvened the Zoning Board meeting.

- 3.6 Consideration and discussion regarding a text amendment to Section 6-14-14(N)(5), *Farmers Market*, of the Administration & Enforcement section of the Lincolnshire Zoning Code, to include the O/Ia Office/Industrial Zoning District as a permitted Zoning District for Farmers Market operations (Village of Lincolnshire).

There was a consensus among the members for this request and the following motion was read:

*Having made findings based on facts covered in a Public Hearing held on May 8, 2012, Member Rubinstein moved and Member Kalina seconded the motion to approve, and recommend to the Village Board for their approval, of an amendment to Section 6-14-14(N)(5), Farmers Market, of the Administration & Enforcement section of the Lincolnshire Zoning Code, to include the O/Ia Office/Industrial Zoning District as a permitted Zoning District for Farmers Market operations, with a Special Use, as presented in Staff's memorandum dated May 4, 2012.*

*The motion passed unanimously by voice vote.*

- 3.7 **Public Hearing** regarding a Special Use request to permit the operation of a Farmers Market, for the 2012 Calendar year, in the parking lot of 300 Knightsbridge Parkway, located in the O/Ia Office/Industrial Zoning District (Aaron Kinney/TGF Markets, Inc).

**Chairman Manion** recessed the Zoning Board meeting and opened the Public Hearing for the Special Use request, which was properly noticed in the April 19, 2012, publication of the *Lincolnshire Review*.

**Planner Robles** summarized Staff's memorandum and noted that this particular proposal is for a 3.5-hour market from the hours of 11:00 am to 2:30 pm, every other Thursday, starting June 21<sup>st</sup> and extending through September 20<sup>th</sup> for the 2012 calendar year. The selected location for the market is in the southwest corner of the parking lot at the 300 Knightsbridge office center as illustrated in the Petitioner's Presentation Packet. Since this building is only partially leased, Staff has observed that parking is concentrated around the immediate areas of the building, leaving the selected parking area empty. This proposed market is slightly different than that envisioned at the time farmers markets were incorporated into the Village Code where only growers and producers are permitted to sale directly to the public. As explained to Staff, it has become typical to have vendors that are not necessarily producing or growing the items for sale, but are still associated with the product in a primary way. **Planner Robles** provided the example that vendors may be part of a cooperative where one member is bringing to market goods from several other members of the cooperative who would likely not be in attendance. In other cases, it would not be practical for certain industries to send individual artisans who produce only one or two kinds of products. While the Special Use request would expand the market to include vendors that may not produce every product being sold, it will remain within the general concept of a "producer market", as noted in the Petitioner's letter of request. **Planner Robles** also noted that the Presentation Packet contains the Petitioner's response to the seven Standards for Special Use for the Zoning Board's review and consideration. He continued that Staff is supportive of the Special Use request at 300

Knightsbridge Parkway. Based on the request to slightly stray from the code requirements to permit producers that would not fit the current definition of a producer in the Village Code, Staff's approval recommendation is subject to three conditions noted in a memorandum dated May 8, 2012.

**Aaron Kinney, TGF Markets Inc.**, provided further explanation of the producer requirement. One example provided is of a flower bed that contains Queen of the Prairie flowers within in a greenhouse at his wife's family residence, if he were to bring such to the market he would not be classified as the producer of the flowers. A producer is a very specific term that relates to a person who is in ownership of and in control of the product being sold. The market that is being proposed would host organic growers and their products but would not be sold by the individual farmers or producers of these products.

**Member Kalina** sought clarification that hosting a farmers market during the week would be more fruitful from what has been experienced. **Mr. Kinney** responded that his farm has been in up to 140 markets and are currently in 80 markets now, and there are over 285 markets just in Illinois which has changed the landscape of how markets are competitive.

There being no further public comments, **Chairman Manion** closed the public hearing and reconvened the Zoning Board meeting.

- 3.8 Consideration and discussion regarding a Special Use request to permit the operation of a Farmers Market, for the 2012 Calendar year, in the parking lot of 300 Knightsbridge Parkway, located in the O/Ia Office/Industrial Zoning District (Aaron Kinney/TGF Markets, Inc).

**Member Leider** questioned if there was a way to make the process easier to give an extension beyond 12 months. **Planner Robles** explained that the Village Code requires that any Special Use for a farmers market expires on December 31<sup>st</sup> of that year. This is to provide the Village with the ability to constantly monitor any market to ensure it remains within the character of Lincolnshire and does not evolve into a standard outdoor market. **Member Leider** understood the reasons behind the year stipulation and further questioned if there was a way to administratively extend a market's approval without having to reconvene a public meeting and to simply provide authorization if all requirements were being met. **Planner Robles** noted that such would have to be reviewed to determine if a code amendment would be desired to remove the Special Use requirement from the Code.

There was a consensus among the members for this request and the following motion was read:

*Having made findings based on facts covered in a Public Hearing held on May 8, 2012, Member Rubinstein moved and Member Kalina seconded the motion to approve, and recommend to the Village Board for their approval, of a Special Use to permit the operation of a Farmers Market, for the 2012 Calendar year, in the parking lot of 300 Knightsbridge Parkway, located in the O/Ia Office/Industrial Zoning District, as presented in Staff's memorandum dated May 4, 2012, subject to approval of a text*



*amendment making Special Uses for Farmers Markets permissible in this Zoning District, as well as Staff's recommendations in a memo dated May 4, 2012, and further subject to the following conditions contained in Staff's memorandum dated May 8, 2012:*

- 1. Food products and related items not for human consumption must be sold by a producer, subject to the following conditions: The producer must either be a) the employer of the person conducting the sales, b) related to the person conducting the sales, or c) a legal or beneficial owner of the enterprise conducting the sales of the products, including ventures such as a farm consortium or sales cooperative. For sellers falling within criteria (c), written evidence of such relationship must be kept on site during all times when the market is operating and made available to the Department of Community Development on three days written notice.*
- 2. All products must be home-grown or home made.*
- 3. All vendors who sell goods prepared/processed in their home kitchens must meet all applicable regulations associated with the Illinois Cottage Food Law.*

*The motion passed unanimously by voice vote.*

**4.0 UNFINISHED BUSINESS (None)**

**5.0 NEW BUSINESS (None)**

**6.0 CITIZENS COMMENTS (None)**

**7.0 ADJOURNMENT**

There being no further business, **Chairman Manion** adjourned the meeting at 8:15 p.m.

Minutes Submitted by Tonya Zozulya, Planner and Steve Robles, Planner